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United States District Court
Southern District of Texas**ENTERED**

December 16, 2024

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

UNITED STATES OF AMERICA §
§ No. 4:24-cr-224
v. §
§
ENRIQUE ROBERTO "HENRY" §
CUELLAR and IMELDA RIOS §
CUELLAR, §
§
Defendants. §

**[PROPOSED] PROTECTIVE ORDER UNDER
SECTION 4 OF THE CLASSIFIED INFORMATION PROCEDURES ACT AND
FEDERAL RULE OF CRIMINAL PROCEDURE 16(d)(1)**

After careful in camera consideration of the government's classified motion for a protective order under § 4 of the Classified Information Procedures Act (CIPA) and Federal Rule of Criminal Procedure 16(d)(1) and accompanying classified exhibits, it is hereby ordered that the motion is GRANTED.

The Court finds that the motion, which seeks authorization to withhold certain classified information from the defense in discovery, was properly filed *ex parte* under CIPA § 4 and Rule 16(d)(1).

The Court finds that the information referenced in the motion is subject to the government's classified information privilege because the information is classified and its disclosure could reasonably be expected to harm the national security of the United States.

The Court also finds that the classified information that the government seeks to withhold in discovery is not "relevant or ... helpful to the[] defense." *United States v. El-Mezain*, 664 F.3d 467, 524 (5th Cir. 2011). The Court finds that those withholdings are consistent with the government's discovery obligations. See Fed. R. Crim. P. 16(a); Fed. R. Crim. P. 26.2; *Brady v.*

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Maryland, 373 U.S. 83 (1963); *Giglio v. United States*, 405 U.S. 150 (1972). It is therefore ordered that the government is authorized to withhold from the defense in discovery the specified classified information that the government seeks to withhold in the motion.

Finally, the motion seeks authorization under CIPA § 4 to provide the defense with an unclassified substitution instead of producing other classified information in discovery. See 18 U.S.C. app. 3 § 4. The Court finds that the government's proposed substitution is suitable and adequate, fairly conveying the material underlying information without other sensitive information whose disclosure could harm national security, thus giving the defendants "substantially the same ability to make [their] defense as would disclosure of the specific classified information." 18 U.S.C. app. 3 § 6(c)(1). It is therefore ordered that the government is authorized to provide the defense with the proposed unclassified substitution specified in the motion and to withhold the corresponding classified information identified in the motion.

It is further ordered that the government's motion and the accompanying declaration shall not be disclosed to the defendant, and shall be sealed and maintained in a facility appropriate for the storage of such classified information by the Classified Information Security Officer as the designee of the Clerk of Court, in accordance with established security procedures, for any future review, until further order of this Court.

It is so ordered.

Dated: December 12, 2024
Houston, Texas



Hon. Lee H. Rosenthal
United States District Judge

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